

Income/Franchise:

Oregon: P.L. 86-272 Guidance Issued for Portland Metro Area's Business Income Taxes

Application of Public Law 86-272 to Business Taxes, City of Portland, Or. (rev. 4/12/23). Tax Administration Policy for the City of Portland, Oregon (City) issued guidance on the application of P.L. 86-272 to the City's Metro Area business income taxes, including the City of Portland Business License Tax, Multnomah County Business Income Tax, and Metro Supportive Housing Services (SHS) Business Income Tax. The guidance explains that these respective City Metro Area taxing jurisdictions apply P.L. 86-272 "on an intrastate basis for tax years beginning prior to January 1, 2023," meaning "that P.L. 86-272 protections apply to a business, for these tax years, unless a business' activities within these taxing jurisdictions exceed solicitation of sales (or activities entirely ancillary to solicitation of sales) of tangible personal property."

URL: <https://www.portland.gov/revenue/policy-application-public-law-86-272-business-taxes>

For tax years beginning on or after January 1, 2023, the City adopts the interstate application of P.L. 86-272 for its Metro Area business income taxes. Reminding that the City adopted market-based sourcing rules for tax years beginning on or after January 1, 2023 for the City's Metro Area business income taxes [see *State Tax Matters*, Issue 2022-44, for more details on this adoption], the guidance provides that a business with nexus in the City Metro Area taxing jurisdictions, whose activities exceed solicitation of sales (or activities entirely ancillary to solicitation of sales) of tangible personal property anywhere within the State of Oregon, is *not* protected by P.L. 86-272 from income taxation by the City Metro Area taxing jurisdictions. Moreover, the guidance states that the City Metro Area taxing jurisdictions do *not* utilize "throwback sales" treatment for apportionment purposes; accordingly, for businesses that apportion their income, sales to a customer outside the City Metro Area taxing jurisdiction(s) are *not* included in the numerator of the sales factor. Lastly, the guidance includes some working examples to help illustrate its concepts, which apply to tax years beginning on or after January 1, 2023. Please contact us with any questions.

URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/STM/221104_5.html

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